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103 EAST NECK ROAD
HUNTINGTON, NY 11743

JUN 9 2005

In re Application of: :
Frank JENAU et al. :
Serial No.: 09/380,410 :
Filed: October 28, 1999 :
For: Method and Device for Measuring an Electrical :
Voltage :

DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. § 1.181, filed June 18, 2003, and renewed on March 25, 2004, to withdraw the holding of abandonment of the above-identified application.

The petition is GRANTED.

A Notice of Allowance and Fee(s) Due action was mailed on June 20, 2002, setting forth a statutory period of three months to pay the issue fee. The application became abandoned for failure to timely pay the issue fee.

Petitioner asserts that the Notice of Allowance and Fee(s) Due action mailed on June 20, 2002 was not received. To support this assertion, petitioner includes copies of the computer and hand entry docket records for application. Petitioner states that if the Notice of Allowance and Fee(s) Due action had been received it would have been docketed for payment on the day before the due date, namely September 19, 2002.

A review of the written record indicates that the Notice of Allowance and Fee(s) Due action was returned as undelivered mail by the US Postal Service on July 8, 2002. The record shows that a supplemental Notice of Allowability was mailed on May 6, 2003.

Pursuant to MPEP § 707.13, the Notice of Allowance and Fee(s) Due action should have been re-mailed.

MPEP § 707.13 states the Office policy with regards to returned Office actions. Office actions are sometimes returned to the Office because the United States Postal Service has not been able to deliver them. The examiner should use every reasonable means to ascertain the correct address and forward the action again, after stamping it "remailed" with the date thereof and redirecting it if there is any reason to believe that the action would reach applicant at such new address. If the Office action was addressed to an

attorney, a letter may be written to the inventor or assignee informing him or her of the returned action. The period running against the application begins with the date of remailing. *Ex parte Gourtoff*, 1924 C.D. 153, 329 O.G. 536 (Comm'r Pat. 1924).

The Notice of Abandonment mailed on December 31, 2003 is hereby vacated and the holding of abandonment is withdrawn. The failure of the examiner to re-mail the Notice of Allowance and Fee(s) Due action after ascertaining the correct correspondence address was insufficient to hold the application abandoned.

The Notice of Allowance and Fee(s) Due action will be re-mailed and the period for response will be reset to run three months from the date it is re-mailed. The delay in re-mailing the Notice of Allowance and Fee(s) Due action and any inconvenience it may have caused the petitioner is regretted.

Questions regarding this decision should be directed to Jose' G. Dees at (571) 272-1569.



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